

Annex 1 to SERVICE AGREEMENT Nr. 133-IE

Terms of reference
for reviewing the referral mechanism within the legal aid system in Moldova

I. Context**a) Project background**

The Justice Program of the Soros Foundation-Moldova (SFM) is implementing the Project "*Legal Empowerment of Rural Communities through a Network of Community-based Paralegals*", in partnership with the Ministry of Justice (MJ), Ministry of Labor, Social Protection and Family (MLSPF) and the National Legal Aid Council (NLAC), with the financial support of Sweden.

The project seeks to contribute to the improvement of the lives of rural communities in Moldova through legal empowerment, facilitated by community-based paralegals. It relies on the understanding of legal empowerment as a means to use the law for the benefit of the disadvantaged and hold the government accountable for its actions. Based on the core assumption that legal empowerment should be an important part in any poverty alleviation work, the project promotes the model of community-based paralegals as part of primary legal aid services, combined with the primary social services provided by the state.

The network of paralegals, comprising 31 people from 31 villages, started its activity in November 2010.

The role of paralegals is to:

- help people solve basic problems of a legal nature through basic legal consultations,
- refer them to specialists or specialized agencies,
- mediate local conflicts,
- educate people about their rights and how to claim respect for their rights, as well as
- motivate and support community members to engage in local decision-making processes and demand accountability from local government.

b) Legal framework

Legal aid in Moldova is regulated by the *Law on state guaranteed legal aid*, which became effective in July 2008. The Law provides that the legal aid system in Moldova is two-tiered: primary (delivered by paralegals and specialized NGOs) and qualified (delivered by public defenders and lawyers who deliver legal aid upon request). The *Regulation on paralegals' activity* was approved by NLAC in June 2011. It clearly states paralegals' remit and regulates the mechanism of selection, training, monitoring, evaluation and reporting, as well as the interaction between paralegals and NLAC's territorial offices.

At the moment, the Law and the Regulation constitute the legal framework regulating primary legal aid. Both of them include provisions regarding the interaction between paralegals and lawyers who deliver state guaranteed legal assistance. Paralegals have been referring beneficiaries to NLAC's regional offices for a while, albeit not based on formal provisions. Not only do paralegals connect people to lawyers, but they also help individuals identify other specialists or specialized institutions that are competent to assist them in solving legal problems. Referrals to lawyers, notaries and other specialists and agencies constitute a large part of paralegals' cases. This calls for a clearly defined and coherent referral mechanism that would be integrated in the current legal framework. At the initiative of the Foundation, the NLAC created a Working Group (WG) that undertook the task of revising and further developing the legal framework regulating primary legal assistance, including the referral mechanism. Two members of the WG – one representing the NLAC and the other representing civil society – are responsible for developing the referral mechanism.

II. Objective of the contest

To select an international consultant who will assist the members of the WG in developing the mechanism of case referral within the national legal aid system and outside its range. While the mechanism will be drafted and delivered by the members of the WG, the selected candidate will review the document and will provide feedback and recommendations for its improvement, based on his or her knowledge, previous experience and recent developments in the field.

It is expected that the selected consultant will allocate 3-5 working days for the proposed task. All communication with SFM and the WG shall be made via e-mail and Skype. No travel is planned for this task. SFM and WG members will provide the consultant with all the information he or she requests for the successful achievement of the task.

III. Content of the referral mechanism

The referral mechanism should focus on at least three key pillars:

1. referral within the legal aid system (primary to qualified)
2. referral to private lawyers
3. referral to other specialists and specialized agencies

It will address the following aspects:

1. To whom are the cases referred?
 - legal aid lawyers
 - public defenders
 - private lawyers
 - specialized organizations (for example, organizations that undertake strategic litigation or case litigation on specific issues, i.e. women's rights)
 - mediators
 - specialized agencies
 - state institutions
2. What types of cases are referred?
3. When are cases referred?
 - initial screening
4. What is the role of the paralegal (or other primary legal aid service provider) after the case is referred? (for example, collecting evidence, taking statements and gathering documents for the attorneys or institutions once a case has been referred to them)
 - explanation of court procedures?
 - monitoring?
 - assistance in obtaining relevant documents?
 - follow up?
 - keep track of data?

IV. Deliverables

The selected candidate will consult the members of the WG on reviewing and developing the referral mechanism. He or she will provide detailed recommendations for the improvement of the mechanism. In addition, the consultant will develop a policy brief regarding the further interaction of paralegals with the legal aid system. The brief will contain recommendations regarding the key issue associated with referral: identifying the most reasonable and cost-efficient mechanism to connect paralegals and their beneficiaries with the legal aid system, private specialists and public institutions. The issue can be analyzed from a top down and from a bottom up perspective. The recommendations should be made both on the legislative and the practice level.

At the end of the term agreed upon, the selected candidate will deliver:

1. a set of recommendations on the referral mechanism drafted by the members of the Working Group;
2. a policy brief regarding the further connection of primary legal aid service providers to the overall legal aid scheme, private specialists and public institutions.

V. Eligible candidates

- University Degree in Law (LL.B. equivalent). Advanced graduate studies in Law is a strong advantage;
- Minimum 7 years of professional experience in the legal aid system. Specific and substantive experience in legal aid reform is a strong advantage;
- Minimum 3 years experience in assessing legal aid reform and legal frameworks regulating legal aid;
- Knowledge of the legal aid system in Moldova and of the regional context (Central and Eastern Europe, former Soviet Union), as well as of the current legal aid systemic challenges is essential;
- Strong analytical skills;
- Superior communication and people management skills.

VI. Recruitment process

All prospective candidates should send a cover letter, a CV/resume and proposals on the expected daily fee by 11 November 2013, 6 pm EET, to the following e-mail: dmarian@soros.md. Subject line: Referral mechanism.

Soros-Foundation Moldova

Victor Munteanu

Program Director



Consultant